No. 762, 940.
Motion papers for D. C.
Filed May 5, 1897.

MAY 5 1897
JAMES H. McKENNEY,
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824
S. C.

In the Supreme Court of the United States.

OCTOBER TERM, 1896.

THOMAS BRAM, ALIAS, ETC., PLAINTIFF in error,
v.
THE UNITED STATES.
No. 762.

MOTION TO ADVANCE.

In the Supreme Court of the United States.

OCTOBER TERM, 1896.

THOMAS BRAM, ALIAS, ETC., PLAINTIFF in error,
v.
THE UNITED STATES.

No. 762.

MOTION TO ADVANCE.

This is a writ of error to review a judgment of the circuit court of the United States for the district of Massachusetts sentencing the plaintiff in error to be hanged for a murder committed upon the high seas and not within the jurisdiction of any State of the United States. The plaintiff in error was brought before a United States commissioner in Boston July 28, 1896. He was indicted, tried before a jury, and on January 2, 1897, found guilty.

There are now held in jail in Boston six sailors who were witnesses in this case, who have been so held since July 28, 1896. As they are unable to furnish bail, there is seemingly no chance for their release until the case is finally determined by this court.

The Solicitor-General therefore respectfully moves the court to advance the case on the docket and set it down for hearing at the earliest day convenient to the court during the next term.

Notice of this motion has been served on counsel for the plaintiff in error, and proof of service filed with the clerk.

HOLMES CONRAD,
Solicitor-General.

No. 340.

IN THE

Circuit Court of the United States,

DISTRICT OF MASSACHUSETTS.

No. 1790.

UNITED STATES, BY INDICTMENT,

vs.

THOMAS BRAM, ALIAS.

No. 1792.

SAME *vs.* SAME.

Affidavit in Support of Defendant's Plea in Abatement and Motion.

(November 12, 1896.)

I, Alexander H. Trowbridge, on oath depose and say that I am the clerk of the circuit court of the United States for the district of Massachusetts.

That I was present at the empanelling of the grand jurors who found the indictments in the above-entitled causes; that all of said jurors were duly sworn in the usual manner, ex-

cept William Merrill, Jr., who, upon being asked to stand and be sworn, said to me: "I affirm;" whereupon, the other jurors having been duly sworn, I administered to him the usual affirmation. This is all that was said by Mr. Merrill to me and all that I said or did with reference to him in connection with this matter.

ALEX. H. TROWBRIDGE.

Subscribed and sworn to before me—

BENJ. H. BRADLEE,
Notary Public.

[SEAL.]

A true copy.

[Seal of the Circuit Court, Massachusetts.]

Attest: ALEX. H. TROWBRIDGE, *Clerk.*

[Endorsed:] Case No. 16,541. Supreme Court U. S., October term, 1897. Term No., 340. Thomas Bram, pl'ff in error, *vs.* The United States. Affidavit of Alex. H. Trowbridge in support of defendant's plea in abatement.

[Stamped:] Office Supreme Court U. S. Filed Oct. 19, 1897. James H. McKenney, clerk.

No. 778. 353.

Motion Papers for D. E.

Filed April 26, 1897.

Supreme Court of the United States.

Office Supreme Court, U. S.
APR 26 1897
JAMES H. McKENNEY,
CLERK
No. 778

BARROW STEAMSHIP COMPANY, Limited,
Plaintiff in Error,

against

MICHAEL KANE,
Defendant in Error.

Now comes the defendant in error, by his counsel appearing in that behalf, and moves the Court to advance the above-entitled cause on the docket, and respectfully shows that this cause is No. 778 on the docket of this Court. That the matter comes before this Court on a certificate from the Circuit Court of Appeals of the Second Circuit, issued in accordance with the provisions of Section VI of the Act of March 31st, 1891, establishing Circuit Courts of Appeal, &c., certifying a question of law as to which the said Circuit Court of Appeals desires the instruction of the Supreme Court for its proper decision. The action was originally brought in the Circuit Court of the United States for the Southern District of New York, for damages sustained in consequence of an assault upon the plaintiff below (above-named defendant in error), a passenger on the defendant's below (above-named plaintiff in error) steamship by persons for whose acts it was

alleged that defendant below was responsible. The plaintiff below was a citizen and resident of the State of New Jersey, and the defendant below a corporation organized under the laws of the United Kingdom of Great Britain and Ireland, doing business in New York through its regularly appointed agents. The assault was committed near Londonderry, Ireland. After answer and upon trial before a jury, and on a verdict of $7,500 judgment was entered in favor of the plaintiff below (above-named defendant in error), and the defendant below (above plaintiff in error) sued out a writ of error to the Circuit Court of Appeals for the Second Circuit to review such judgment, and the question as to which the Circuit Court of Appeals desires the instructions of the Supreme Court, as appears by said certificate, is :

"Had the Circuit Court jurisdiction to try the action and render judgment therein against the defendant ?"

That the decision of said Circuit Court of Appeals on the said writ of error is reserved, and cannot be made until the determination of the question arising on said certificate, thereby causing great delay in the final disposition of this cause to the great injury of the above-named defendant in error.

F. K. PENDLETON,
Counsel for above-named Defendant in Error for the purpose of this motion.

See in re Hohorst, 150 U. S. 653.

No. 778. 353.

Motion Papers for P. C.

FILED
APR 23
JAMES H. McKEN

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

Filed April 23, 1897.

BARROW STEAMSHIP COMPANY, LIMITED,
Plaintiff in Error.

AGAINST

MICHAEL KANE,
Defendant in Error.

No. 778.

MEMORANDUM IN BEHALF OF PLANTIFF IN ERROR, UPON MOTION TO ADVANCE CAUSE.

The plaintiff in error does not object to the advancement of this cause *provided* it does not thereby lose its right to an *oral* argument.

But plaintiff in error does most earnestly desire the opportunity to argue the cause orally before this Court, for the reason that the question of jurisdiction involved is one of considerable importance and not heretofore specifically passed upon by this Court, and although the point raised by the plaintiff in error has seemed to its counsel sufficiently clear, nevertheless the lower Court has declined to recognize it, thus making apparent the necessity of having the question presented to this Court with the fullness and clearness possible only upon an oral argument.

Besides being a matter of some general importance, the question raised is one of considerable consequence to plaintiff in error, and not at all foreign to the merits of the case.

The defendant in error has been enabled to obtain

from a jury a verdict of $7,500 against the plaintiff in error, mainly, it seems to the latter, because permitted to sue it in New York upon matters which happened in Ireland and had nothing to do with its New York business, so that it was not possible for the plaintiff in error to produce any witnesses upon the trial, but it was obliged to resort to the burdensome and, before a jury, well nigh useless method of taking evidence by commission.

It is doubtful whether the condition attached to the admission of foreign corporations into the territory of New York State, namely, that they shall submit there to suit upon causes of action arising elsewhere when the complainant is a citizen of New York, is reasonable and enforceable; but it certainly is not reasonable that it should submit to such a suit there by a citizen of New Jersey, nor anywhere in the United States unless it elects to enter the territory of New Jersey and engage in business there.

Esek Cowen
Harrington Putnam
Counsel for Plaintiff in Error.